

REMARKS

In the restriction requirement, the Examiner asserts that the claims recited within the instant application are allegedly organized into three groups of claims. The Examiner, on page 2 of the restriction requirement describes these groups as follows:

- I. Claims 1-17, drawn to a computing system having an application workload profiling capability, classified in class 718, subclass 107.
- II. Claims 18-30, drawn to a method for establishing a chargeback billing amount from a user of a computer system based on an application program workload for said user on said computer system, classified in class 705, subclass 52.
- III. Claim 31 drawn to a method of profiling an application's program workload, classified in class 710, subclass 18."

As explained in MPEP § 803, "an application may properly be required to be restricted to one of two or more claimed inventions only if they are independent (MPEP § 806.04-§ 806.04(i)) or distinct (MPEP § 806.05-806.05(i))." A generic claim which may support a restriction of a genus/species set of claims is defined within MPEP § 806.04(d). Within this section of the MPEP, it is noted that "the generic claim cannot include limitations not present in each of the added species claims. Otherwise stated, the claims to the species which can be included in the case in addition to a single species must contain all of the limitations of the generic claim."

The Applicant maintains that the above three groups are one invention recited within various embodiments. The Applicants maintain that the groups of claims all possess application workload profiling capability limitations. Claims 1-17 expressly recite limitations to "a snapshot capture program" and related limitations. Claims 18-30, as well as Claim 31 also recite limitations regarding a snapshot capture program.

The Applicant respectfully maintains that the Examiner will be required to search the same areas for all three groups of claims, as recited in the application in order to adequately determine the patentability of the claims recited herein. As such, no additional effort would be required to examine all of these claims in the present application.

CONCLUSION

In view of the above arguments, it is submitted that the Election/Restriction requirement contained within Official Communications dated June 19, 2001 is improper. The Applicant respectfully requests that the instant requirement be withdrawn.

Respectfully Submitted,

INVENTOR

By his attorneys,

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